

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY BERLIN

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E.O. 11652: N/A

TAGS: CGEN, CPRS, PFOR, SCUL, GE, US

SUBJECT: FEININGER PAINTINGS

REF: A) 77 BERLIN 5584; B) 77 STATE 049468

1. MR. RALPH COLIN, WHO IS THE EXECUTOR FOR THE ESTATE OF ESTELLE FEININGER, MADE CALL ON DEPUTY ASSISTANT SECRETARY GOODBY JANUARY 18 TO DISCUSS SIXTY LYONEL FEININGER PAINTINGS WHICH THE GDR ADMITS BELONG TO THE ESTATE BUT REFUSES TO ALLOW TO BE EXPORTED.

2. THE PAINTINGS WHICH WERE IN THE CUSTODY OF A "FRIEND" IN THE GDR WERE DECLARED THE PROPERTY OF THE FEININGER ESTATE BY A HALLE COURT IN FEBRUARY 1976. ON JUNE 10, 1976, HOWEVER, COLIN WAS TOLD BY GDR AUTHORITIES THAT, ALTHOUGH THE PAINTINGS LEGALLY BELONG TO THE ESTATE, THEY CANNOT BE TAKEN OUT OF THE GDR, UNTIL US-GDR PROPERTY

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CLAIMS HAVE BEEN SETTLED. AGREEING WITH MR. COLIN THAT THE ESTATE HAD NOT BEEN DEPRIVED OF THE PAINTINGS DE JURE AND THAT THEY ARE, THEREFORE, NOT PROPERLY INCLUDABLE IN THE CATEGORIES OF CLAIMS THE US AND GDR WILL NEGOTIATE IN THE FUTURE, THE EMBASSY DELIVERED AN AIDE MEMOIRE TO THE MFA ON MARCH 23, 1977(REF A) ASKING THAT THE ESTATE BE ALLOWED TO REMOVE THE PAINTINGS FROM

THE GDR. ON APRIL 27, DEPUTY ASSISTANT SECRETARY VINE ASKED FORMER DCM ELM FOR AN ANSWER TO THE AIDE MEMOIRE, AND VICTOR GRAY, EUR/CE, DID THE SAME WITH MONTAG ON AUGUST 19. WE HAVE NOT YET RECEIVED AN ANSWER. IN THE MEANTIME, WE ADVISED COLIN TO FILE A CONCURRENT CLAIM WITH THE U.S. FOREIGN CLAIMS SETTLEMENT COMMISSION IN ORDER TO ENSURE THAT ALL BASES WERE COVERED IN PROTECTING THE ESTATE. IN THIS REGARD, WE HAD SPECIFICALLY ADVISED COLIN TO ACCOMPANY HIS CLAIM WITH A DISCLAIMER AND TO AVOID LETTING THE EAST GERMANS KNOW THAT HE HAD FILED A CLAIM, LEST IT COMPLICATE HIS EFFORTS WITH THEM.

3. AT HIS JANUARY 18 MEETING WITH GOODBY, COLIN ASKED THE DEPARTMENT AGAIN TO SEEK A DEFINITIVE "YES OR NO" ANSWER TO OUR AIDE MEMOIRE, SAYING THAT HE DID NOT WISH TO FILE A CLAIM WITH THE USFCSC UNTIL HE HAD RECEIVED SUCH AN ANSWER. HE ALSO REVEALED THAT HE HAS SOUGHT THE INTERCESSION OF DR. BRZEZINSKI AND DR. FRANK STANTON, NOW WITH THE RED CROSS. COLIN LEFT WITH DEPARTMENT OFFICERS A COPY OF HIS MEMO TO STANTON, WHICH UNFORTUNATELY REFERS TO DEPARTMENT'S ADVICE TO FILE WITH THE USFCSC, AND A COPY OF STANTON'S LETTER TO GDR RED CROSS PRESIDENT WERNER LUDWIG FORWARDING COLIN'S UNEDITED MEMO AND ASKING FOR LUDWIG'S HELP.

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4. GOODBY TOLD COLIN THAT WE WOULD AGAIN SEEK ANSWER TO AIDE MEMOIRE THROUGH EMBASSY BERLIN AND PROMISED TO RAISE MATTER HIMSELF WITH AMBASSADOR SIEBER, AS SOON AS SIEBER RETURNS FROM LEAVE.

5. ACTION: EMBASSY SHOULD RAISE MATTER AT MFA, POINTING OUT THAT IT HAS BEEN NEARLY A YEAR SINCE AIDE MEMOIRE, REVIEWING POINTS IN AIDE MEMOIRE AND OFFERING PERSONAL OPINION THAT TURNOVER OF PAINTINGS IN CONNECTION WITH DRESDEN EXHIBIT WOULD BE WELL-TIMED GESTURE SURE TO GENERATE FAVORABLE PUBLICITY FOR GDR. IN THIS REGARD, EMBASSY OFFICER MAY REFER TO COLIN'S INTENTION OF EXHIBITING PAINTINGS THROUGHOUT U.S. WITH "FULL CREDIT BEING GIVEN TO THE GDR" AND STATE THAT WE WOULD WELCOME SUCH AN OUTCOME AS SMALL BUT APPROPRIATE GESTURE OF IMPROVED RELATIONS. IF GDR RAISES QUESTION OF FILING CLAIM WITH USFCSC, EMBASSY OFFICER SHOULD REITERATE THAT PAINTINGS, HAVING BEEN DECLARED PROPERTY OF FEININGER ESTATE, ARE NOT A PROPER SUBJECT OF CLAIMS NEGOTIATIONS AND SHOULD STRESS THAT ANY CLAIM FILED BY COLIN WITH USFCSC WOULD BE CONDITIONAL AND ONLY FOR THE PURPOSE OF PROTECTING ESTATE UNDER

U.S. DOMESTIC LAW.

6. DEPARTMENT WILL POUCH COLIN'S MEMO AND OTHER MATERIALS.
VANCE

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